

TRIBAL PROVISIONS OF THE LEAHY-CRAPO VAWA REAUTHORIZATION BILL

Rates of **domestic violence against Native women** in Indian country are now **among the highest in the United States**. The **Leahy-Crapo VAWA reauthorization bill** directly confronts this **epidemic**.

Federal law-enforcement resources are often **hours away** from reservations and **stretched thin**. And **Federal law does not provide the tools needed** to address domestic violence in Indian country.

Tribal police, prosecutors, and courts have, however, had significant **successes** in combating crimes of domestic violence committed **by Indians** in Indian country. But without an act of Congress, **tribes cannot prosecute a non-Indian, even if he lives on the reservation and is married to a tribal member**. With **non-Indians** constituting more than **76% of the overall population** living on reservations and other Indian lands, **interracial dating and marriage** are common. Too often, **non-Indian men** who batter their Indian wives or girlfriends go **unpunished**. Predictably, the **violence escalates**.

The **U.S. Department of Justice** studied this crisis, worked with Federal prosecutors and the FBI, consulted with tribal leaders and victims' advocates, and recommended **new Federal legislation** to better protect Native women. The Senate Indian Affairs Committee held **extensive hearings** on the issue. The **Leahy-Crapo VAWA bill** adopts the Justice Department's recommendations.

The Leahy-Crapo bill provides tribes with the authority to **hold domestic-violence perpetrators accountable** for their crimes against Native women – **regardless of the perpetrator's race**.

Under the Leahy-Crapo bill's tribal-jurisdiction provisions:

- Tribes could prosecute non-Indians **only** for **domestic violence, dating violence**, and violations of **protection orders**. Crimes between two **strangers**, or between two **non-Indians**, or between persons with **no ties** to the tribe, would **not** be covered.
- Tribes could **sentence** perpetrators, Indian or non-Indian, for **up to 3 years** per offense.
- **Federal- and state-court jurisdiction** over domestic violence would be **unaffected**.
- Defendants would effectively have the **same rights in tribal court as in state court**, including **due-process rights** and an indigent defendant's right to free **appointed counsel** meeting Federal constitutional standards.
- Defendants could protect their rights by **appealing** their convictions to a **tribal court** and **filing habeas petitions** in **Federal court**.

The Leahy-Crapo bill also would deter **more dangerous crimes** of domestic violence against Native women by authorizing **Federal prosecutors** to seek, against Indian or non-Indian defendants:

- **5-year sentences** for assaults resulting in **substantial bodily injuries**; and
- **10-year sentences** for assaults by **strangling** or **suffocating**.